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NO._____

IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1984

Karole K. Jensen, as
Administratrix of the
Estates of Sylvia Brown
and Michael Clark, Deceased,

Petitioner,

v.

Virgil L. Conrad, et al,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

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IN THE
SUPREME COURT OF THE UNITED STATES

NO.

Karole K. Jensen, as Administratrix of the Estate of Sylvia R. Brown, Deceased,

Petitioner,

vs.

Virgil L. Conrad, in his individual and official capacity as Commissioner of the Department of Social Services; Robert Kneece, Fred G. Scott, Samuel Smith, Agnes Wilson, Oscar P. Butler, Jr., John C. Williams, Jr., and Lucy C. Trower, individually and in their official capacities as members of the State Board of the Department of Social Services; Collie L. Moore, W. H. Neal, Catherine Morris, Allen Dowdy, Arlene B. Andrews, Beatrice Sumter, Robert E. Alexander, Melissa Burnette, individually and in their official capacities as members of the Richland County Board of the Department of Social Services; Mary Williams and Patricia Jones, individually and in their official capacities as Social Workers for the South Carolina Department of Social Services;

and
Barbara Locklair, individually and in her official capacity as a "Home Health Nurse" for the South Carolina Department of Social Services;

Respondent.

Karole K. Jensen, as Administratrix of the Estate of Michael Clark, Deceased,

Petitioner,

vs.

Virgil L. Conrad, in his individual and official capacity as Commissioner of the Department of Social Services; Mary D. Dusenberry, George D. Hamilton, Oscar P. Butler, Ph.D., John C. Williams, Jr., Lucy C. Thrower, Agnes Wilson, Ph.D., and W. Jerry Fedder, individually and in their official capacities as members of the State Board of the Department of Social Services; Jerry Herd, Harold E. Simpson, Ophelia S. Smith; J. Furman Gerrard, and Odell Short, individually and in their official capacities as members of the Anderson County Board of the Department of Social Services;

Respondent,

and

Kenneth Pryor, individually and in

his official capacity as Director of the Anderson County Department of Social Services;
Dawn Hawkins, individually and in her official capacity as Program Director for Human Services of the Anderson County Department of Social Services;
Susan Straup, individually and in her official capacity as Protective Services Supervices of the Anderson County Department of Social Services; and
Charie Ann Jenkins, in their official capacities as social workers with the Anderson County Department of Social Services,

Defendants.

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QUESTIONS PRESENTED

I. Whether state officials who violate specific provisions of the state statute governing their official duties enjoy good faith immunity in a civil rights action alleging that the same conduct which violated the state statute also caused a deprivation of a citizen's constitutional rights.

II. Whether the failure of state officials to perform their duties under a state child protection statute can give rise to a Section 1983 action for the unconstitutional deprivation of a child's life where the child dies as a result of the state officials' failure to perform duties mandated by the state statute.

III. Whether a state statute can create

in reported child abuse victims a right to a thorough investigation by adequately trained state officials of which the reported child abuse victim cannot be deprived without due process.

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PETITION FOR WRIT OF CERTIORARI

OPINIONS BELOW

The opinion and order of the United States District Court for the District of South Carolina, Columbia Division (Civil Action No. 82-2061-15), was entered on March 4, 1983, and is fully

printed in this petition at Appendix Page 58 . The supplemental opinion and order of the United States District Court for the District of South Carolina, Columbia Division (Civil Action Number 82-2061-15), was entered on July 18, 1983, and is fully printed at Appendix page 96.

The opinion and order of the United States District Court for the District of South Carolina, Anderson Division (Civil Action Number 82-2059-14), was entered on June 16, 1983, and is fully printed at Appendix page 150 . The opinion and order of the United States District Court for District of South Carolina, Anderson Division (Civil Action Number 82-2059-14), was entered on August 24, 1983, and is fully printed at Appendix page 204.

The order of the United States

District Court for the District of South Carolina, Anderson Division, granting Virgil Conrad's motion for summary judgment was entered on August 24, 1983, and is fully printed at Appendix page 200. The order of the U. S. District Court for the District of South Carolina, Anderson Division, directing the Clerk to enter final judgment was entered on August 24, 1983, and is fully printed at Appendix page 204.

The opinions of the United States Court of Appeals for the Fourth Circuit (Civil Action Numbers 83-1801 and 83-1936) were entered October 5, 1984, and is fully printed at Appendix page 1.

JURISDICTION

The orders of dismissal of the United States District Court for the District of South Carolina, Columbia Division, and the United States District Court for the District of South Carolina, Anderson Division, were affirmed by the United States Court of Appeals for the Fourth Circuit on October 5, 1984. This Court's jurisdiction to review the decision of the United States Court of Appeals for the Fourth Circuit is conferred by Title 28, United States Code, Section 1254(1).

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

United States Constitution, Amendment XIV, Section 1:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any Law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

42 U.S.C. Section 1983:

> Section 1983. Civil Action for Deprivation of Rights.
>
> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State of Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured

by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

S. C. Code Ann. Sections 20-7-480 through 20-7-736 (1982 Cum. Supp.):

See Appendix, page 232.

Child Protection Act of 1977:

See Appendix, page 291.

S. C. Code Ann. Section 20-7-480 (1982 Cum. Supp.):

Section 20-7-480. Purpose.

Recognizing that abused and neglected children in South Carolina need protection, it is the purpose of this article to save them from injury and harm by establishing an effective reporting system and encouraging the reporting of children in need of protection ; by establishing an effective system of services throughout the State to safeguard the well-being and development of

endangered children and to preserve and stabilize family life, whenever appropriate; by establishing fair and equitable procedures, compatible with due process of law to intervene in family life with due regard to the safety and welfare of all family members and by establishing an effective system of protection of children from injury and harm while living in public and private residential agencies and institutions meant to serve them.

S. C. Code Ann. Section 20-7-640(B) (1982 Cum. Supp.):

Section 20-7-640. Duties of State Department of Social Services.

(B) The Department of Social Services shall have within it a separate organizational unit administered within the Department with qualified staff and resources sufficient to fulfill the purposes and functions assigned to it by this article.

S. C. Code Ann. Section 20-7-650(B) (1982 Cum. Supp.):

Section 20-7-650. Duties of

local child protective agency.

> (B) The local child protective service agencies shall be adequately staffed with persons trained in the investigation of suspected child abuse and neglect and in the provision of services to abused and neglected children and their families.

S. C. Code Ann. Section 20-7-650(C) (1982 Cum. Supp.):

Section 20-7-650.
Duties of local child protective agency.

> (C) Within twenty-four hours of the receipt of a report of suspected child abuse or neglect, the agency shall commence an appropriate and thorough investigation to determine whether a report of suspected child abuse or neglect is "indicated" or "unfounded". The finding shall be made no later than sixty days from the receipt of the report. In conducting the investigation if the facts so warrant the agency investigator may petition the Family Court of the appropriate judicial circuit for a warrant to inspect the premises and condition of the child subject of the report. The Family Court shall issue the inspection warrant upon probable cause to believe the child

is abused or neglected, as defined by this article.

S. C. Code Ann. Section 20-7-660(A) (1982 Cum. Supp.):

Section 20-7-660.
Information, training and publicity.

(A) The Department of Social Services Protective Services and the local child protective services agencies shall, on a continuing basis, inform all persons required to report under this article of the nature, problem and extent of child abuse and neglect and of their duties and responsibilities in accordance with this article. The Department of Social Services and local agencies shall also, on a continuing basis, conduct training programs for local agency staffs as well as appropriate training for persons required to report under this article.

STATEMENT OF THE CASE

Seven month old Sylvia Brown, and three year old Michael Clark, died in 1979 after suffering brutal beatings at the hands of their guardians. Their estates brought suit under 42 U.S.C. Section 1983 against the Commissioner of the South Carolina Department of Social Services (DSS), members of the State Board of DSS, members of the board of the Richland county DSS and Anderson County DSS, and various state employed caseworkers.

The Sylvia Brown Case

The estate of Sylvia Brown brought suit in the United States District Court

for the District of South Carolina at Columbia, South Carolina. The complaint alleged that Sylvia Brown was subjected to severe and brutal beatings by her parents from March 5, 1979, until her death from those beatings on May 11, 1979; that the child's peril was known to DSS caseworkers as early as March 5, 1979, but that they failed to take action because of indifference, lack of training and experience, and oversight of the measures that could have protected the child.

The complaint further alleged that Sylvia Brown's death succeeded numerous cases of injury or death to children that were known or should have been known to the state and county board members; that each of the injuries and deaths arose from the custom of both boards to assign child abuse cases to

caseworkers with inadequate training and experience; that the state board failed to take steps to adequately train its personnel; that although Sylvia Brown died directly at the hands of her parents, the defendants' failure to perform their duties as mandated by the South Carolina Child Protection Act of 1977[1] caused her to be subjected to a deprivation of her life without due process, and that her estate was entitled to relief pursuant to 42 U.S.C. Sections 1983 and 1988.

[1]The Child Protection Act of 1977, which is printed fully at Appendix page 291. was recodified in 1981 as subarticle 7 of the South Carolina Children's Code under the heading of "Intervention by Child Welfare Agencies." See S. C. Code Ann. Sections 20-7-640 to 730 (Cum. Supp. 1982), fully printed at Appendix page 263.

The Honorable Judge Clyde H. Hamilton heard oral arguments on the defendants' 12(b)(6) motions to dismiss on February 25, 1983; and on March 4, 1983, issued an order fully dismissing the complaint against the commissioner, the members of the State Board of the Department of Social Services, and defendant Locklair, and partially dismissing the complaint against the members of the Richland County board in their official capacities.

The Court ruled (1) that the commissioner, the state board members, and defendant Locklair were protected from suit in their official capacities by the eleventh amendment; (2) that county board members could not be

subject to punitive damages in their official capacities under 42 U. S. C. 1983; (3) that county board members in their official capacities are protected by sovereign immunity from wrongful death actions; (4) that state and county board members and defendant Locklair, in their individual capacities were entitled to qualified immunity because it was not "clearly established" by the "Supreme Court, the appropriate court of appeals and . . . the highest court of the state involved" that a cause of action premised on the fourteenth amendment would lie against the defendants for "failure to adequately train or supervise social workers dealing with abusive parent(s)."(See Appendix 88-89).

On March 14, 1983, the appellant filed a motion to alter or amend the judgment of March 4, 1983, pursuant to Rule 59(e) of the Federal Rules of Civil Procedure and a motion for leave to file an amended complaint, pursuant to Rule 15(a) of the Federal Rules of Civil Procedure. The proposed amended complaint alleged more specific facts about Sylvia Brown's death and more clearly set out the basis for the defendants' liability under Section 1983.

Judge Hamilton heard oral arguments on appellant's motions on June 28, 1983, and filed a supplemental order on July 18, 1983. He denied both the motion to alter or amend and the motion for leave

to file an amended complaint, and further dismissed the complaint as to all defendants in both their official and individual capacities. (See Appendix page 149).

Judge Hamilton denied plaintiff's motion to amend the complaint, stating the proposed amended complaint set forth more completely the facts surrounding Sylvia Brown's death, but would not alter the court's opinion with regard to the existence of "state action". (See Appendix page 146-47).

The Michael Clark Case:

In the Michael Clark case, the plaintiff's material allegations were

virtually the same as in the case of Sylvia Brown. The estate filed suit in the United States District Court for the District of South Carolina at Anderson, South Carolina. The state board members, county board members and the county director responded with motions to dismiss pursuant to Rule (12)(b)(6). The Honorable William W. Wilkins, Jr., heard oral arguments on those motions on January 24, 1983. The court reserved ruling on the motion and directed the plaintiff to submit detailed allegations as to deficiencies in training of the caseworkers, how the deficiencies were relevant to this case, why it was reasonably possible for the DSS worker

to receive the necessary training, and to allege more specifically what actual or constructive knowledge the state and county board members had. The court stayed discovery pending disposition of the motions to dismiss.

In a Memorandum of Detailed Allegations, the plaintiff outlined the derogation of duties, acts, omissions, and customs and practices fostered by the members of the state and county boards which created the situation in which Michael Clark was allowed to be abused, then killed, by his mother's live-in boyfriend. The memorandum detailed facts alleging that the Anderson County child protective service agency and the state agency had received reports from a school teacher, a neighbor, and the Alabama child protection services agency that the

children in Michael Clark's family were being abused. The memorandum recounted that Anderson County caseworkers made no investigation into the reports because Michael Clark's family could not be located and contacted within sixty (60) days of the report, even though the family continued to reside in Anderson County, and even though the family's address was kept current by the Anderson County school district and food stamp offices.

The memorandum assigned responsibility to the county board and the state board members for fostering a system of child protective services in which caseworkers, because of improper staffing, inadequate training, and excessively high caseloads, were allowed to close a file if they failed to locate the child; all of which were in

derogation of the affirmative duties owed to Michael Clark by state law. The plaintiff asserted that had the state's officers and agents performed their express duties as required by the South Carolina Children's Code, then Michael Clark would not have been killed; and that the state officers' and agents' derogation of their express duties caused a deprivation of life without due process.

During the course of considering the motions to dismiss, the defendant members of the state board submitted extensive materials relating to training received by Department of Social Service employees, and on April 4, 1983, the district court decided to view the defendants' motions to dismiss as motions for summary judgment. Plaintiff was granted leave until April 25, 1983,

to file responsive affidavits, but the stay of discovery pending disposition of the motions was not lifted.

The plaintiff submitted the affidavits of three former DSS protective service workers, and a certified copy of the South Carolina Attorney General's "Report of Investigations of Circumstances surrounding the Deaths of Certain Children in South Carolina Directly Resulting from Physical Abuse and Neglect or Abandonment". Counsel for plaintiff submitted two affidavits stating that the plaintiff would be unable by affidavits to submit evidence essential to justify opposition to dismissal unless the district court allowed depositions to be taken or discovery to be had in accordance with Rule 56 of the Federal Rules of Civil

Procedure. Among materials that the plaintiff expected to obtain through discovery was the primary investigation by the South Carolina State Law Enforcement Division into the death of Michael Clark, which included interviews with DSS caseworkers and supervisory officials. Counsel for plaintiff further stated that other admissible evidence supporting Plaintiff's allegations was exclusively within the control of the Defendants, who refused its voluntary release.

On June 16, 1983, Judge Wilkins issued an order granting summary judgment in favor of the boards of the state DSS and the Anderson County DSS. The order was based on the affidavits submitted by the parties and the objective good faith immunity rule stated by Harlow v. Fitzgerald, 457

U.S. 800 (1982). The district court further directed the plaintiff to file a more detailed complaint against the caseworkers involved in the Michael Clark investigation.

The factual findings by the district court were that Michael Clark was a three-year-old child who was killed apparently by the live-in boyfriend of Michael's mother. The Anderson County DSS became involved prior to Michael's death when it received a report on February 28, 1980 from the principal of New Prospect Elementary School concerning possible abuse of Michael's older brother. A protective service caseworker was sent to the school to investigate the matter. Based on the caseworker's interview with the child and his teacher, she apparently decided that the

family should be officially contacted. However, after repeated attempts, she failed to locate the home. Consequently, after the expiration of sixty days, the case was classified as "unfounded" and officially closed. No further action was taken by the Anderson County DSS prior to Michael's death on June 23, 1980. (See Appendix p. 152-54).

Judge Wilkins ruled that (1) the claims against the state and county board members were limited exclusively to the issue of training provided to caseworkers; (2) the affidavits submitted did not show that the state and county board members acted with deliberate indifference to the welfare of children receiving protective care; (3) the claims against the defendants in their official capacities were barred by the eleventh amendment; (4) the state

and county board members were entitled to good faith immunity because the training program they provided was not in violation of clearly established law constituting notice of possible liability. (See Appendix page 194).

On August 24, 1983, the district court denied motions by the plaintiff for leave to file an amended complaint and for amendment of the court's order granting summary judgment. Judge Wilkins, however, declined to endorse Judge Hamilton's opinion that insufficient state action was present to support liability against the defendants, and he ruled that the protective service caseworkers were not entitled to summary judgment.

The district court ruled on August 24, 1983, that the commissioner of the Department of Social Services was

entitled to summary judgment on the same basis as the state and county board members.

The Brown and Clark cases were consolidated on appeal to the United States Court of Appeals for the Fourth Circuit. The Fourth Circuit held that:

> [A]t the time of the alleged violation a constitutional right of affirmative protection was not clearly established . . . therefore, good faith immunity was available to the defendants.

See App. p. 8.

Accordingly, the Fourth Circuit affirmed both of the lower courts' rulings in the Brown and Clark cases.

While acknowledging that a right of protection may, given the proper facts, exist at present (See App. p. 43) , the Fourth Circuit found that, "[A]s of 1980, affirmative duty and constitutional rights had found a common

ground in this circuit only in the prison setting." (See App. p. 28). In support of its conclusions that the law at the time of the alleged wrongdoing was not clearly established and that the good faith immunity of Harlow was available to the defendants, the Fourth Circuit stated:

> The comparison of the post-1980 Martinez-Fox line of cases with Estelle and its pre-1980 eighth amendment progeny demonstrates just how limited the right to affirmative protection was in this circuit at the time the alleged violations occurred. Although the seeds of a fourteenth amendment-based right lay dormant in the eighth amendment cases, the defendants could not have anticipated the expansion that would later occur.

See App. p. 44.

It is from the Fourth Circuit's decision that petitioner seeks a Writ of Certiorari.

REASONS FOR GRANTING THE WRIT

I. The Issues Involved Are of Great Importance to the Public.

It is no secret that the physical abuse, neglect, and sexual abuse of this country's children is a growing national problem. Children, because they are totally dependent on those responsible for their care, are helpless to defend themselves. The issue of whether the government has any constitutional duties toward a child whom it knows or should know is abused is so important that it should be faced without delay.

It is estimated that there were 1.3 million reports of child abuse in the

United States in 1982.[1] State child protection agencies found an estimated forty-one per cent of those reports to be substantiated.[2] This petition raises the question of what constitutional rights abused children have. Each state in the United States has enacted a statute to protect reported child abuse victims.[3] This petition further raises the question of whether those statutes can trigger constitutional duties owed by state officials to a child once the state has been notified that the child is in danger. Because an increasingly large number of this country's children

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[1] American Humane Association, "Reported Child Maltreatment 1982," (1982).

[2] Ibid.

[3] Besharov, Criminal and Civil Liability in Child Welfare Work: The Growing Trend, p. 5 (1983).

are affected by these questions, they are of great public importance.

II. The Fourth Circuit's Misapplication of Good Faith Immunity, If Allowed to Continue, Would Stagnate the Development of Civil Rights Law.

In the lower courts, Appellant asserted that the state had an affirmative duty to protect children whom the state knew or should have known to be abused, and that the failure of state officials to perform that duty caused a child to be subjected to an unconstitutional deprivation of his life. Appellant further asserted that, at the very least, the state child protection statute created in suspected victims of child abuse a right to a thorough investigation by adequately

trained state officials[4]; and that state officials deprived Sylvia Brown and Michael Clark of that right without due process of law in violation of the fourteenth amendment.

The Fourth Circuit ruled that, while a duty of affirmative protection may now exist, such a duty was not

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[4]S. C. Code Ann. Section 20-7-650(c) mandates, among other things, that upon receipt of a report of suspected child abuse, "[T]he agency shall commence an appropriate and thorough investigation to determine whether a report... is 'indicated' or 'unfounded'." S. C. Code Section 20-7-650(b) mandates that: "The local child protective services agency shall be adequately staffed with persons trained in the investigation of suspected child abuse and neglect and in the provision of services to abused and neglected children and their families."

clearly established when Sylvia Brown and Michael Clark died in 1979. An examination of the Fourth Circuit's opinion reveals that the court arrived at this conclusion largely because of an absence of case law addressing the facts presented by the Sylvia Brown and Michael Clark cases. See Appendix, page 28. Such an approach is not mandated by Harlow, nor does it further the goal of balancing the vindication of constitutional guarantees against the interest in reducing the costs of insubstantial lawsuits. Rather, the Fourth Circuit's approach would stagnate the development of civil rights law by allowing defendants to hide behind the claim that the particular factual setting in question has never been addressed in a reported opinion. The variety of situations in which state

officials interact with citizens and the inevitable variations in human behavior would render Section 1983 meaningless if state officials are entitled to good faith immunity in every case in which there is no prior court decision directly on point. Yet the Fourth Circuit's method of applying good faith immunity would yield such a result.

The better view recognizes that officials can reasonably be expected to foresee that the general constitutional rule will be applied to specific factual settings. See e.g., King v. Higgins, 702 F.2d 18 (1st Cir. 1983). If the application of settled constitutional principles to a specific factual setting leads to a conclusion that a particular constitutional right has been violated, then liability should follow.

Judge Wilkins, in denying the

caseworkers' summary judgment motion, employed the better approach to the application of good faith immunity:

> The obligations of protective service caseworkers are specifically defined in [S. C. Code] Section 20-7-650. The requirements which must be satisfied are clearly established, thereby providing proper notice. Therefore, caseworkers who act in violation of these requirements cannot be reasonably held to have acted in "good faith." None of the purposes behind the Harlow objective good faith immunity rule would be served by such a decision. When a governmental official acts in violation of a specific statute which has a direct bearing on his official conduct and of which it is reasonable to expect him to be knowledgeable, a resulting lawsuit cannot be reasonably characterized as "insubstantial." Nor will holding that offical liable in such a case constitute unfair punishment or place undesirable restraints on his flexibility.

See App. at p. 194-95.

The Petitioner recognizes that a violation of a state statute alone does

not constitute a cause of action under Section 1983, and that in order to establish a claim under Section 1983 it is necessary to prove a violation of a federally protected right. However, where state officials violate the specific state statute governing their duties, and the same conduct which violated the statute also causes a deprivation of a constitutional right, good faith immunity should not serve as a defense to a subsequent Section 1983 claim.

While it may be argued that good faith immunity may be established even in the face of blatant violations of state law unless there is a corresponding "clearly established" federal statutory or constitutional right, the purposes behind Harlow would not be served by such an approach. Moreover, the plain wording of Harlow

does not support such an interpretation:

> We therefore hold that government officials performing discretionary functions generally are shielded from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. (Emphasis added.)

457 U.S. at 818.

The Fourth Circiut has mistakenly focused on conduct, and not the right involved. If there was a right to life created by the constitution, which was clearly established at the time of the conduct in question, the test of Harlow has been met.

It cannot be disputed that both Michael Clark and Sylvia Brown were deprived of their lives. The question remains of whether the defendants' conduct was a proximate cause of those deprivations. The defendants would

certainly be able to argue at trial that the intervening acts of the persons who actually killed the children were a superceding cause of the childrens' deaths. This, however, is not sufficient reason to avoid the constitutional issues in this case. The plaintiff could reasonably argue at trial that an intervening cause is not a superceding cause if reasonably foreseeable by the defendant under the circumstances; and that once state officials have been put on notice that a child is being abused, further abuse and even death are reasonably foreseeable.

The Petitioner is aware that in Martinez v. California, 444 U. S. 277 (1980), this Honorable Court held that the decedent's death was too remote a consequence of the state officials' actions to hold them responsible under

Section 1983. Here, as in Martinez, the person who actually killed the decedent was not an agent of the state. However, in the Sylvia Brown and Michael Clark cases there are crucial factual distinctions from Martinez. First, the time between the defendant's conduct and the victim's death is much shorter here. Second, the defendants had been put on notice that Sylvia Brown and Michael Clark were being abused. Indeed, in the Michael Clark case the defendants had received reports from three different sources informing them of Michael Clark's plight. Thus, unlike in Martinez, the defendants here cannot claim that they were unaware that these victims, as distinguished from the public at large, faced any special danger. Moreover, the child protection act was enacted and protective service

caseworkers were hired to protect children such as Sylvia and Michael from the special danger of child abuse. The question of proximate cause in the Sylvia Brown and Michael Clark cases should be decided at trial, not by motion.

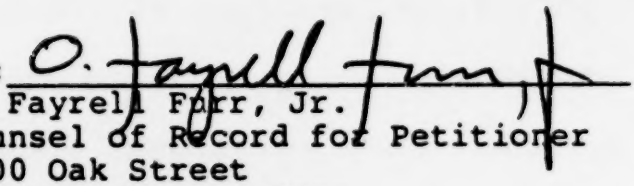
CONCLUSION

For the above-stated reasons, the Petitioner respectfully requests that

this Court grant this Petition for a Writ of Certiorari.

Respectfully submitted,

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CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that he is an attorney at law licensed to practice in the State of South Carolina and is admitted to practice in the Supreme Court of the United States, is attorney for the Petitioner and is a person of such age and discretion to be competent to serve process.

That on January 17, 1985, he served the required copies of the attached Petition for Writ of Certiorari by placing said copies in a post paid envelope addressed to the persons hereinafter named, at the place stated below, which is the last known address, and by depositing said envelope and its contents in the United States Mail.

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